

STATE OF MICHIGAN
COURT OF APPEALS

STEVE REEVES, III, Personal Representative of the
Estates of KEVIN MARTIN REEVES and KEVIN
MARTIN REEVES, JR., and KEVIN REDMOND,
Personal Representative of the Estates of SHAWN
EILEEN REEVES and TANESHA REEVES,

Plaintiffs-Appellants,

v

WALTER TOEBE CONSTRUCTION COMPANY
and CITY OF DETROIT,

Defendants-Appellees.

UNPUBLISHED
June 24, 1997

No. 192403
Wayne Circuit Court
LC No. 95-521655 NI

Before: Gage, P.J., and Reilly and Hoekstra, JJ.

MEMORANDUM.

In this wrongful death action arising from a motor vehicle accident, plaintiffs appeal as of right from a circuit court order summarily dismissing their action pursuant to MCR 2.116(C)(10). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The question presented in this case is whether the documentary evidence presented in support of and in opposition to the motion for summary disposition created a genuine issue of material fact sufficient to allow plaintiffs to proceed to trial on the issue of proximate cause. This question must be answered in the negative. The speed at which the truck was traveling when it merged onto the service drive from the expressway exit ramp was not a proximate cause of the accident as a matter of law, where the uncontroverted expert testimony indicated that the truck had sufficient time and distance to stop or otherwise avoid striking the vehicles stopped in traffic on the service drive, had the truck otherwise been in good working order. *McMillian v Vliet*, 422 Mich 570, 576; 374 NW2d 679 (1985); *Babula v Robertson*, 212 Mich App 45, 54; 536 NW2d 834 (1995). Furthermore, the removal of the speed limit sign at issue *increased* the default speed limit by 5 mph, MCL 257.627(2)(a); MSA 9.2327(2)(a), so its absence did not negatively impact on the culpable driver's behavior. Accordingly, if the speed of travel was not a proximate cause of the fatal accident, then

defendants' failure to replace a speed limit sign on the exit ramp also was not a proximate cause of the accident, as a matter of law.

Affirmed.

/s/ Hilda R. Gage
/s/ Maureen Pulte Reilly
/s/ Joel P. Hoekstra